

FIRST NOTICE OF COMMENT PERIOD

LSA Document #17-279

WASTE TIRE MANAGEMENT

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [329 IAC 15](#) concerning waste tire management and legitimate use of waste tires. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

CITATIONS AFFECTED: [329 IAC 15](#).

AUTHORITY: [IC 13-19-1-2](#); [IC 13-19-3-1](#); [IC 13-19-3-1.3](#); [IC 13-20-13-11](#); [IC 13-20-14-6](#).

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

This rulemaking proposes amendments to the waste tire management requirements at [329 IAC 15](#) and includes many of the amendments originally proposed in LSA Document #12-200, which was withdrawn on March 9, 2016. LSA Document #12-200 was withdrawn because a portion of the proposed amendments had to do with legitimate use of waste tires in lieu of disposal and required additional statutory authority to be considered for adoption. To alleviate this situation, the Indiana General Assembly enacted Public Law 97-2016, which granted authority to the Environmental Rules Board to adopt rules for the legitimate use of waste tires. In accordance with the enactment of Public Law 97-2016, IDEM is initiating this rulemaking to propose amendments to [329 IAC 15](#).

The main purposes of this rulemaking are to incorporate statutory changes enacted in Public Laws 37-2012 and 97-2016, update requirements to be consistent with current conditions in the waste tire management industry in Indiana, amend outdated, repetitive, or unnecessary requirements, improve accountability and safety for waste tire management, and clarify and improve the rule language throughout the article.

IDEM proposes the following changes to align [329 IAC 15](#) with the statutory changes in Public Laws 37-2012 and 97-2016:

- Addition of the term "passenger tire equivalents" (PTE) as a measurement for the amount of waste tire material, including waste tires that are whole or altered.
- Option for local government units to sponsor waste tire amnesty programs.
- Amendments to the types of facilities that are exempt from the waste tire storage and processing requirements.
- Amendments to the options for waste tire disposal by a source of waste tires.
- Amendments to general requirements for the waste tire transporters.
- Establish standards and procedures for the legitimate use, instead of disposal, of waste tires, including requirements for:
 - proper storage and handling;
 - record keeping; and
 - what constitutes the legitimate use of a waste tire.

IDEM is also proposing the following amendments to [329 IAC 15](#):

- Modification, addition, or deletion of definitions.
- Update financial assurance requirements to conform with current industry standards for waste tire facilities and transporters.
- Simplification and clarification of the requirements for operating as a mobile waste tire processing operation.
- Streamlined requirements for application and registration of waste tire facilities and transporters.
- Update waste tire management requirements to improve safety at waste tire facilities and eliminate unnecessary requirements.
- Compliance alternatives for waste tire management, methods of closure, and contingency plans for mobile waste tire processing operations.
- Clarification of record keeping and reporting requirements for waste tire facilities and transporters.
- Requirements for calculating the amount of PTEs at a waste tire facility and clarification of compliance requirements for facilities that exceed certain thresholds of PTEs.
- Streamlining of closure requirements for waste tire facilities.
- Option to submit information to the department in an electronic format.
- Removal of forms in the rule language.
- Modification of requirements throughout the rules to eliminate repetitive or unnecessary requirements and

improve the clarity and accuracy of rule language.

The main groups that will be affected by the rulemaking include waste tire transporters, processing operations, storage sites, potential applicants for legitimate use of waste tires, and local government units. IDEM does not anticipate that the rule amendments will increase annual operating or compliance costs for the affected entities, although the entities may have an initial administrative cost to understand and comply with the amendments. The local government tire amnesty program will affect local government units and solid waste management districts that choose to host a waste tire amnesty program. However, because local government units will not be required to host an amnesty program, they are not subject to additional requirements or costs.

IDEM seeks comment on the affected citations listed, including suggestions for specific language, any other provisions of Title 329 that may be affected by this rulemaking, and alternative ways to achieve the purpose of the rulemaking.

Alternatives to Be Considered Within the Rulemaking

Alternative 1. Amend [329 IAC 15](#) to incorporate statutory changes in Public Law 37-2012 and Public Law 97-2016, update the requirements to be consistent with current conditions in the waste tire management industry in Indiana, amend outdated, repetitive, or unnecessary requirements, improve accountability and safety for waste tire management, and clarify and improve the rule language throughout the article.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Do not initiate a rulemaking to amend [329 IAC 15](#) after the withdrawal of LSA Document #12-200.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

There are no federal rules or laws that are directly applicable to waste tire management in Indiana.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. This alternative will not have a significant fiscal impact because the proposed amendments will not require any additional fees for waste tire processing operations, storage sites, or transporters. In addition, the proposed amendments are not intended to increase normal operating or compliance costs for waste tire facilities already operating in compliance with the current requirements.

IDEM does anticipate that affected entities may have an initial administrative cost to understand and comply with the proposed amendments. At this stage in the rulemaking, IDEM does not have an exact estimate for the administrative cost, but will determine a more exact estimate as the rulemaking progresses. However, beyond the potential initial administrative cost, IDEM does not anticipate any additional long-term compliance costs or fees.

Streamlining of certain requirements within the rules may actually reduce costs for some affected entities. Those that choose to pursue compliance alternatives contemplated in the proposed amendments could benefit from reduced compliance and administrative costs. The compliance alternatives may allow the affected entities to explore and pursue a lower cost process to meet the waste tire management requirements and reduce the overall compliance costs for that particular entity.

Potential Fiscal Impact of Alternative 2. This alternative will not have a fiscal impact because the alternative does not propose any changes to the current rules for waste tire management at [329 IAC 15](#).

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP and other resources available can be found at:

www.in.gov/idem/ctap

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Angela Taylor
IDEM Small Business Regulatory Coordinator/CTAP Small Business Liaison
IGCN 1316
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 233-0572 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 4-4-35-8](#) is:

Katelyn Colclazier
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 431-1560
kcolclazier@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 4-4-35-8](#), specifically [IC 4-4-35-8\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Brian Rockensuess
IDEM Small Business Assistance Program Ombudsman/Office of Government and Community Affairs
IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386 or (800) 451-6027
brockens@idem.in.gov

Public Participation and Work Group Information

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Dan Watts, Rules Development Branch, Office of Legal Counsel at (317) 234-5345 or (800) 451-6027 (in Indiana).

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:

LSA Document #17-279 Waste Tire Management
Dan Watts
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Indianapolis, IN 46204-2251

- (2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 232-8922.

- (3) By electronic mail to dwatts1@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

- (4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than July 7, 2017. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Dan Watts, Rules Development Branch, Office of Legal Counsel (317) 234-5345 or (800) 451-6027 (in Indiana).

Christine Pedersen, Section Chief
Rules Development Branch
Office of Legal Counsel

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An [html](#) version of this document.